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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,434	04/10/2001	Timothy Kraft	KEYL-002/00US	3806
7590	12/15/2005		EXAMINER	
PILLSBURY WINTHROP LLP INTELLECTUAL PROPERTY GROUP 11682 EL CAMINO REAL SUITE 200 SAN DIEGO, CA 92130			BARQADLE, YASIN M	
			ART UNIT	PAPER NUMBER
			2153	
			DATE MAILED: 12/15/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/832,434	KRAFT ET AL.	
	Examiner	Art Unit	
	Yasin M. Barqadle	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 September 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) _____ is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-23 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

Response to Amendment

1. Applicant's arguments filed on September 19, 2005 have been considered but they are not persuasive for the following reasons.

Response to Arguments

2. In response to applicant's argument that "Cannon does disclose 'that the concept and technique of the present invention are equally applicable to tracking and analyzing the behavior of a sample population for visitors to a web pages on the World Wide Web.' ¶ [0133]. However, applying the system disclosed in Cannon would involve adding 'specialized equipment' to group of web browsers or computers out of all possible visitors to the web pages on the World Wide Web, and collecting data from that specialized equipment", the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d

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413, 208 USPQ 871 (CCPA 1981). Furthermore, the invention as claimed did not preclude any method or technique of how the sampling is done. Cannon presented and described his invention in the context of television viewing. However, "other types of data may be manipulated and analyzed in a similar fashion. It should be noted that the concepts and techniques of the present invention are equally applicable to tracking and analyzing the behavior of a sample population for visitors to web pages on the World Wide Web. Similarly, information about the readership populations for magazines and newspapers could also be manipulated and analyzed by applying various preferred embodiments of the present invention. Indeed, any advertising firm/agency, business, or other organization that wishes to track large quantities of information regarding various sample populations can successfully implement the various techniques and methods described herein." [0133]. In this way the following significant advantages are obtained: "the ability to add, on a weekly basis, large quantities of data to the existing user databases; a way to easily move relevant portions of existing databases from location to location (such as from a central server to a laptop computer); the ability to retrieve large blocks of data from the database, organize the data in memory, and analyze the data; the ability to filter the data according

to user selected demographic criteria; and retrieve information for the same sample members across multiple weeks. " [0134].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 and 13-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pogue et al US PN. (6112240) in view of Cannon USPN. (20010020236).

As per claim 1, Pogue et al teach a system for monitoring usage of a web browser executing on a client computer (client computer 200, fig. 3) during interaction with a content server (content server 304, fig. 3), said system comprising:

a client component (a tracking program) for determining whether a user identification code associated with said web browser (cookie includes identifier code identifying a user col. 7, 2-

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10) indicates the web browser (identifier code related to user's browser identifies the user browser and the client computer that is tracked col. 4, lines 6-15 and col. 6, lines 46 to col. 7, line 10).

Although Pogue et al show substantial features of the claimed invention, he does not explicitly show a sampled population of user.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Pogue et al, as evidenced by Cannon USPN. (20010020236).

In analogous art, Cannon whose invention is about a method of analyzing the access habits and preference of media audiences, discloses disclose tracking and analyzing the behavior of a sample population for visitors to a web pages on the World Wide Web [¶0064 and ¶ 0133].

Giving the teaching of Cannon, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Pogue et al by employing the advertising optimization system of Cannon so that businesses, network, and advertising agencies can interactively create, score, rank and compare various proposed or actual advertising strategies in a simple and efficient manner. This allows the decision makers to more effectively tailor their marketing efforts and successfully

reach the desired target market while conserving scarce advertising capital (abstract and 000133-0134).

Pogue et al as modified further teach transmitting usage data indicative of said interaction in the event said web browser is included within said sampled population (client computer information and a tracker message is transmitted by the client col. 2, lines 13-25 and col.5, lines 33-40) wherein said sampled population comprises a subset of a set of web browsers interacting with said content server (information relating to the browser type, version and cookie number identifying the client computer is obtained from the message header of tracker message col. 6, lines 46 to col. 7, line 10); and a monitoring server for receiving said usage data transmitted by said client component (tracking computer 308 stores tracked information received from tracked client computers col. 4, lines 3-42].

As per claim 2, Pogue et al teach the system of claim 1 wherein said user identification code is stored on said client computer as persistent client-side state information [cookie with user identifier code is stored on tracked client computers col. 6, lines 46 to col. 7, line 10].

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As per claim 3, Pogue et al teach the system of claim 1 wherein said client component includes a sampling tag embedded within a web page provided to said web browser by said content server (col. 4, lines 6-29), said sampling tag determining whether persistent client-side state information stored on said client computer includes identification information suitable for use as said user identification code (col. 4, lines 6-41 and col. 5, 7-53).

As per claim 4, Pogue et al teach the system of claim 3 wherein said sampling tag generates a random number corresponding to said user identification code in the event said identification information is determined to be unsuitable for use as said user identification code [random number is added the URL col. 6, lines 14-28].

As per claim 5, Pogue et al teach the system of claim 4 wherein said random number is appended to said persistent client-side state information and thereby stored on said client computer as said user identification code [random number is added the URL col. 6, lines 14-28].

As per claim 6, Pogue et al teach the system of claim 3 wherein said client component further includes a data collection script,

said sampling tag requesting said data collection script to be downloaded from said monitoring server to said client computer in the event that said user identification code indicates that said web browser is included within said sampled population [col.4, lines 16-29 and col.6, lines 1-28].

As per claim 7, Pogue et al teach the system of claim 3 wherein said random number is stored on said client computer as said user identification code in the form of a sampling cookie distinct from said persistent client-side state information, said sampling tag determining whether said user identification code indicates that said web browser is included within said sampled population [col.6, lines 1-28 and col. 6, lines 46 to col. 7, line 10].

As per claims 13,17 and 21, Pogue et al teach the invention for monitoring user interaction with a web browser executing on a client computer, said method comprising the steps of (fig. 3 and abstract):

embedding, within a file, an address of a first server computer (col. 4, lines 6-29);
downloading said file from a second server computer to said client computer (col. 4, lines 61 to col. 5 lines 30],

determining whether a user identification code associated with said web browser indicates that said web browser is within a randomly selected web browsers interacting with said second server computer (identifier code related to user's browser identifies the user browser and the client computer that is tracked col. 4, lines 6-15 and col. 6, lines 46 to col. 7, line 10);

generating usage data indicative of said interaction in the event said web browser is within said randomly selected subset (information relating to the browser type, version and cookie number identifying the client computer is obtained from the message header of tracker message of the tracked computer col. 6, lines 46 to col. 7, line 10);

transmitting said usage data to said first server computer (col. 2, lines 13-25 and col.5, lines 33-40); and receiving said usage data at said first server computer and storing said usage data (tracking computer 308 stores tracked information received from tracked client computers col. 4, lines 3-42).

As for the subset of a set of browsers (sampled population of user (browser), see the rejection of claim 1 above.

As per claims 14 and 18, Pogue et al teach the invention further including the step of storing said user identification code

within said client computer as persistent client-side state information [cookie with user identifier code is stored on tracked client computers col. 6, lines 46 to col. 7, line 10].

As per claims 15, 19 and 22, Pogue et al teach the invention further including the step of determining whether persistent client-side state information associated with said web browser includes identification information suitable for use as said user identification code (col. 4, lines 6-41 and col. 5, 7-53).

As per claims 16, 20 and 23, Pogue et al teach the invention further including the steps of generating a random number corresponding to said user identification code in the event said identification information is determined to be unsuitable for use as said user identification code, and determining whether said random number indicates that said web browser is included within said randomly selected subset [random number is added the URL col. 6, lines 14-28].

4. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pogue et al US PN. (6112240) in view of Cannon USPN. (20010020236).

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As per claim 8, Pogue et al and Cannon show the invention substantially as explained in claim 1 above.

Pogue et al further teach a transmission channel and a first client component coupled to the transmission channel (see fig. 3 internet connection 295A).

Although, Pogue et al and Cannon show substantial features of the invention including a first client in local area network that is connected to Internet 295A, he does not show a second client with the similar functionality as the first client.

Nonetheless, these feature of having more than one client in a local area network (LAN) is well known in the art as suggested by Pogue et al where computer 200 may be in local area network (col. 3, lines 62-67). It would have been obvious to one ordinary skill in the art at the time of the invention to include more than one client computer in the system of Pogue et al as suggest by Pogue et al in for the advantage of efficiently tracking particular browsers and determining the number of accesses made by a particular browser on a specified client computer.

As per claim 9, Pogue et al teach the system of claim 8 wherein said first client component determines whether persistent client-side state information stored on said first client computer and associated with said first web browser includes

identification information suitable for use as said first user identification code (col. 4, lines 6-41 and col. 5, 7-53).

As per claim 10, Pogue et al teach the system of claim 9 wherein said first client component generates a random number corresponding to said first user identification code in the event said identification information is determined to be suitable for use as said first user identification code (col. 4, lines 6-41 and col. 5, 7-53).

As per claim 11, Pogue et al teach the system of claim 8 wherein said first client component includes a first sampling tag and a first data collection script, said first sampling tag requesting said first data collection script to be downloaded from said monitoring server to said first client computer in the event that said first user identification code indicates that said first web browser is included within said sampled population [col.4, lines 16-29 and col.6, lines 1-28].

As per claim 12, a client component with similar limitations has been described in the rejection of claim 11 above. Therefore, it is rejected with the same rationale.

Conclusion

5. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained form the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

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